

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**UNITED STATES FIDELITY AND
GUARANTY COMPANY,**

Plaintiff,

v.

**PAUL A. BORDIERI and ANDREA
J. COSTA, Trustees of JACKSON
CONSTRUCTION COMPANY,
a Massachusetts Business Trust,
PAUL A. BORDIERI, Individually**

Defendants,

and

**SOVEREIGN BANK, NA,
APPLETON PARTNERS, INC. and
CAMBRIDGE APPLETON TRUST, NA,**

Trustee Process Defendants.

C.A. No. 05-11397 NMG

**PLAINTIFF UNITED STATES FIDELITY AND GUARANTY COMPANY'S
MOTION TO CONTINUE THE TRIAL OF THIS CASE**

Pursuant to Rule 40 of the Federal Rules of Civil Procedure and Rules 40.3(A) and 16.5 of the Local Rules of the United States District Court for the District of Massachusetts, the Plaintiff, United States Fidelity & Guaranty Company ("USF&G") moves this Court to continue the trial date presently, scheduled in this case for January 23, 2006, to the Honorable Judge Gorton's next available trial date. As grounds for this Motion, USF&G states that it has good cause for requesting a postponement of the trial date. Namely, the Parties have been actively engaged in settlement discussions and are close to finalizing a settlement agreement. However,

given the complex nature of this case, the Parties need additional time to finalize the terms and conditions of the settlement agreement.

To the extent that the Parties are unable to finalize the terms and conditions of the settlement agreement, the Parties will need additional time to conduct necessary discovery and to prepare this case for trial. In support of this Motion, USF&G submits a Memorandum in Support of its Motion to Continue the Trial of this Case.

WHEREFORE, USF&G requests that this Court:

- 1) continue the trial scheduled in this matter for January 23, 2006 to the next available trial date on Judge Gorton's calendar;
- 2) refer the matter to Magistrate Judge Bowler for settlement facilitation; and
- 3) grant such other relief as is just and appropriate.

RULE 7.1(A)(2) CERTIFICATION OF COUNSEL

Pursuant to Local Rule 7.1(A)(2), counsel certifies that he has conferred and has attempted in good faith to resolve or narrow the issue presented by this motion and has not obtained assent from all the parties to the motion.

**UNITED STATES FIDELITY AND
GUARANTY COMPANY,**
By its attorneys,

/s/ Scott S. Spearing
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Dated: January 19, 2006

CERTIFICATE OF SERVICE

I herby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on January 19, 2006.

/s/ Scott S. Spearing
Scott S. Spearing